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INDIANA FLAW JOURNAL



The Faculty's Choice
Freshman Techniques

Recent Cases

Senior Picture

Law Day Program

Indianapolis Faculty Roundup

Recent Legislation

In Memoriam

Volume: Loud

May 2, 1964

Numbered: Our Days

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Indianapolis Campus: The metropolitan division is northwest of the Monument Circle phallic symbol and chariot track.

Entrance

Bloomington Campus: Entrance may be had through the front door depending on whether or not one seeking entrance wants to be trampled by the emerging masses heading for a coffee break. The more energetic may enter through the Men's Room window, which is always open.

Indianapolis Campus: Entrance is simple, but to find the building one needs a divining rod and a fanatical desire for legal education.

Admission Requirements

Applicants must present a *bona fide* diploma from any accredited reform school, bartender's school or Monroe College of Pinball Knowledge.

No under-graduate hours in English are necessary, since Legal Techniques I and II are devoted to grammar and spelling.

Any veteran of the Boxer Rebellion will be accepted without application.

Students who transfer from such unrecognized institutions as harvard, yale or michigan must sign a loyalty oath and commit to memory the second verse of "Gloriana Frangipani."

We do not want riff-raff. Anyone who has been discharged from prior law schools for using canned briefs, sandbagging books or defacing bulletin boards can expect a lot of competition here.

THE INDIANA FLAW JOURNAL

(Banned in Boston)

Volume
Loud

May 2,
1964

Numbered
Our Days



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The Flaw Journal was founded, as near as we can determine from our shoddy research, in 1946 by a handful of courageous W. W. II veterans under the sponsorship of the Law Club. It popped out, after secret preparation, on Law Day each spring until 1958, when it was discontinued either because of indifference or popular demand. But, after a five-year breather, pop goes The Journal again.

The Journal is dedicated to the proposition that Law School is more than books and briefs: it is in addition a confrontation with memorable legal personalities and subject matter. It is financed entirely by its advertisers, and sponsored by the Bloomington and Indianapolis Student Bar Groups.

Entered in the mails as pretty low-class matter.

THE FACULTY'S CHOICE

(Following is the transcript of a little-publicized Indiana Law School Faculty meeting called for the purpose of endorsing a presidential candidate in the 1964 election.)

MR. FUCHS: Gentlemen of the faculty, I desire to propose, or should I say that I wish to submit to you, to this assemblage, assembled here today, in the faculty lounge, that is to say here on the second floor, or more precisely, Room 216, of the Indiana University School of Law, Bloomington Division . . .

MR. HALL (*impatiently*): Get on with it, Ralph.

MR. FUCHS: Well, I propose that we endorse Ambassador Adlai E. Stevenson.

MR. CLIFFORD: Oh, my goodness.

MR. MANN (*drinking his coffee*): Well, it seems to me that we ought to be very professional in our approach to this kise. Of course, in other words, it seems to me that we need a candidate of high intellectual reputation and a professionalistic approach to the kises confronting a national executive.

MR. FUCHS: Who do you have in mind, Howard?

MR. MANN (*spilling his coffee*): Well, it seems to me, myself.

MR. FUCHS: Really, Howard, don't you think mebbe that you need some time to present yourself to the public?

MR. MANN: It seems to me, of course, that once my brief is published in paperback form, the public will recognize my professionalistic approach. After all, in other words, Abraham Lincoln, who, incidentally, was a very poor lawyer, never even published anything except those ridiculous speeches, and certainly it seems to me that if he could be elected, the electorate would prefer professionalism even more.

MR. HARRIS: I resent that statement, Dr. Mann. I believe that you are attacking the beard rather than the man behind it.

MR. HALL (*pointing*): Don't waste my time with these idle comments. Anybody else?

MR. NOLAN: Uh, if you will, Jerry, excuse me for speaking up at this time, but I would like to suggest, if I might, that, in the alternative, we back Sen. Harry Byrd of Virginia.

MR. PRATTER: You just can't get 'em off your mind, can you, Val?

DR. NEUMAN: Now, in this matter of endorsing a candidate, I feel that we should throw our weight behind Judge Charles Clark, who, incidentally, is the author of Clark on Code Pleading and also an editor of C.J.S. You fellows all know what C.J.S. stands for, don't you?

(*Mr. Pratter knocks*)

DR. NEUMAN (*undisturbed*): One Saturday afternoon, Judge Clark and I discussed many matters and I feel that his insight into the crucial problems facing our country today is very, very deep.

MR. PRATTER: And so is he, Alfred; six feet as a matter of fact.

DR. NEUMAN (*disturbed*): Oh, dear me.

(*Dean Wallace enters*)

MR. CLIFFORD (*clicking his stopwatch*): Leon, you are 4:28.3 late. Must you put me on the spot like this?

MR. WALLACE: I apologize, Austin, but Mrs. Mills had some extra typing for me to do.

MR. GETMAN: Charlie, before you interrupted, I was about to speak out in behalf of labor. I have been doing some scholarly research in the area of labor problems, and my diligent pursuit of knowledge has led me to *THE JIMMY HOFFA COLOR-ING BOOK*.

MR. DICKERSON: I move we draft Mr. Hoffa with no provisos.

MR. GETMAN: *Au contraire*, as they say in Commercial Law, I feel that Hoffa's power must be counterbalanced by a man like Bobby Kennedy.

MR. CLIFFORD: Oh, my goodness.

MR. OLIVER: I cain't endorse no Democrat! I couldn't even back Mr. Campitee.

MR. PRATTER: You'd better forget about politics, Porky, and get back to memorizing those section numbers. Let me give you the biiig picture. (*Mr. Pratter picks up pointer*) What we really need is a man who will give us that old-time, black-letter, red-eye, pay-the-rent leadership. (*Mr. Pratter takes off coat*) The American people have had enough of this hanky-panky. We have had enough of these greasy, wheezy, cheesy, uh . . . sleazy politicians. (*Mr. Pratter climbs table*) The little old lady orphan widow, the beggars in the street, the barefoot boys with their cheeks of tan, and even Fanny Hill are all crying out for a real leader. I move that we go, go, go for Cassius Clay! (*Mr. Pratter returns to his seat, exhausted*)

MR. WAGNER: Podstawowe zalozenia projektu polskiego kodeksu morskiego? (Who the hell is Cassius Clay?)

MR. BSHKOFF (*shouting*): I only had one semester of Polish at Harvard, Wags, but did I understand you to nominate simple Simpson on Contracts?

MR. DAVIS (*adjusting his Hollywood shades*): Whattaya mean, simple Simpson? Rumm, rum, rum . . . next to Marty on Agency and that Criminal Law outline I've been using out on the coast, Simpson is the best thing I've ever taught from.

(*Mr. Kurt Pantzer enters, carrying a mink briefcase*)

MR. PANTZER: Gentlemen, I suggest that this meeting adjourn to my garden party now in progress at the Frangipani Room. There's only room for twelve in my Pantzerwagen, so the rest of you will have to ride in Ritchie's Rambler.

*All knock, the traditional signal for adjournment of
the Indiana Law Faculty.*

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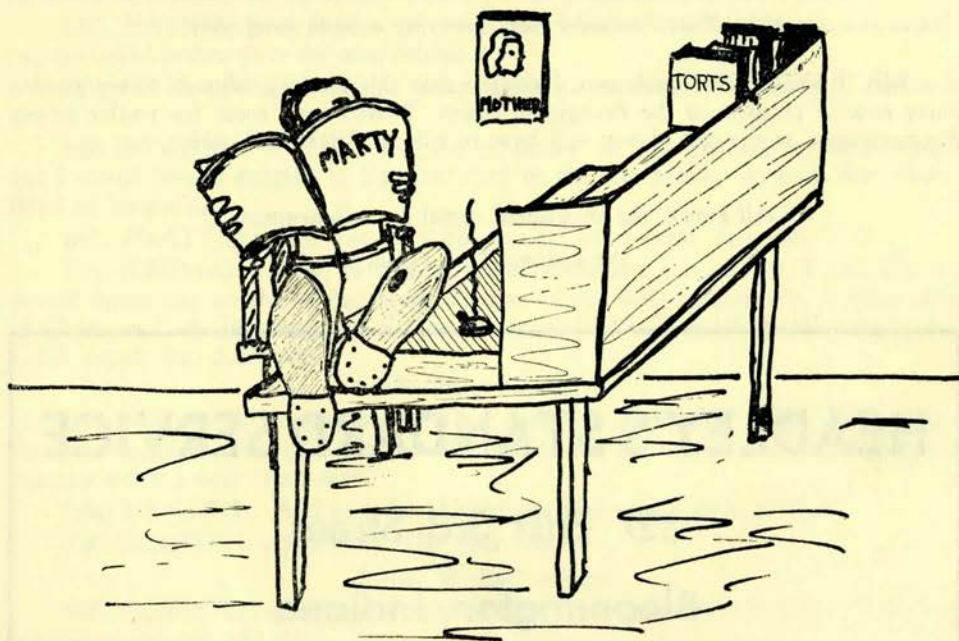
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HOME

MY EXPERIENCE WITH FRESHMAN TECHNIQUES

By Ivan Skroode

Each year hordes of freshmen are turned loose in the caverns of the law library to participate in the annual ritual designed to perfect the techniques of their chosen profession. This shell-shocked writer¹ feels it his obligation to discuss his experiences with the program. The following is designed to enlighten freshmen on some aspects of the trial they are forced to endure and the parties behind it.

The faculty of the school uses great care in selecting men to mold the eager freshmen into true and worthy attorneys. The instructors selected are without exception men of destiny, although they have yet to determine what their destiny is to be. This is naturally frustrating and it is therefore understandable that this frustration is precipitated upon the freshmen. Such is accepted and indeed premeditated, though not without purpose. Spasmodic leadership and a chaotic environment have proved to be successful in shattering preconceived ideas of the law² and its function.

With these observations in mind, the student should attempt to write as incoherently as possible. Such a display of lack of understanding will perhaps not obtain a high mark,³ but it will undoubtedly merit a warm comment of sympathy and put you on a personal basis with your Teaching Associate. This personal relationship is highly desirable since it frequently results in the giving of gifts at Christmas time, e.g., a Christmas goose.

The teaching staff are not the only persons to have an influence on the lives of aspiring young lawyers. The library personnel leave their impact in their exercise of

1. This writer has unselfishly been permitted by the members of the faculty to participate in the Legal Techniques Program for three years. It should of course be added that each year was succeeded by two years of rest and recuperation with the United States Army.

2. E.g., "The law is a frigid mistress."

3. The associates pride themselves on their percentage of low marks, so to obtain a high mark, it is imperative that the student write a thoroughly confused paper which yet has a scintilla of relationship to the topic assigned. The instructor then must weigh the satisfaction of giving a low grade against the possibility of utter humiliation when he might later be confronted with the fact that he gave, for example, Prosser an "F" for his discussion of the law of criminal conversation. This is tricky, but it can be done.

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life and death control over the student's everyday activities. Miss LeBust is first encountered⁴ at a meeting for freshmen in which she explains such things as the purpose and location of the library. After an hour of this the students are awakened and handed a project calculated by Miss LeBust to lead the freshmen through all the books in the library. The purpose of this project is clearly to remove the dust from books which would otherwise be lost. The freshmen are also handed a map of the library, a canteen full of V-8 juice, and K-rations and ordered to report to Big Red, another member of the library heirarchy⁵. At her signal, which is usually a loud Shhhhhhhhhh, all freshmen converge on the library. Plants are overturned, the bulletin board is ripped to shreds, desk attendants are molested, upperclassmen climb to the top of the stacks⁶, and general panic prevails. The Student Bar Association is called in at this time to supply beer and potato chips to those wounded. Such continues until the sea of humanity is calmed by the mere presence of that unbefuddled rock of strength, Mr. Fernlicky.⁷ The freshmen then settle down to the usual sandbagging, lifting, trading of work product and the other such legal techniques which will be so important in future practice.⁸

4. Assuming of course that the student has not been previously caught smoking a cigar or seen with Ron Nelson. Such activities are frowned upon and immediately brought to the attention of Miss LeBust.

5. Big Red is a recently imported agent and legman for Miss LeBust. Red's warm smile and friendly manner are cheerful additions to the law library. However, this writer feels it's his obligation to warn freshmen that her radiant exterior is only a cover for a cold, designing mind. She is actually the agent of Max, who in turn reports directly to the Monroe County Prosecutor, Tom Toadly. Upon close scrutiny it will be noticed that Red seems to be interested in one's affairs. This is not without purpose. All information obtained is channeled to Mr. Toadly, who files it for future reference by members of his staff. Red and Max have also been frequenting many law school gatherings. *Caveat*, don't let that hazy, far-off look they give fool you. They are still the eyes and ears of Toadly.

6. Last year upperclassmen were led to safety by Fleet-foot Mohler.

7. His presence is precisely timed to prevent the complete destruction of the library since it provides the sole source of income for numerous persons. Mr. Fernlicky is presently under surveillance by Mr. Toadly for conspiracy to overthrow Miss LeBust. However, one need not fear, for Miss LeBust is adequately protected by a Mrs. Maul, who faithfully sits by LeBust's door in constant vigilance.

8. All this is due to the generous contributions of Mr. Cranberry, whose agent, Michael Anthony, was seen during a recent research project taking notes on the student riots.

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RECENT CASES

Broad v. Fern, 438 Ind. 68, 123 World Book 40 (1964)

In October of 1963, in a small southern Indiana community, a first-year law student made legal history sooner than he expected. The complaint alleged that Mr. Clyde Fern "did attack and assault one Ima Broad, plaintiff, with intent to indulge in a bad habit."¹ The facts averred by plaintiff were that Mr. Fern had come to her front door one evening representing himself to be an insurance salesman, asking her if she had any policies.² Miss Broad asserted that she could see by her porch light³ that defendant was "shady and sneaky looking, obviously a law student." Defendant then allegedly pulled her from the house and onto the porch, there attacking her while plaintiff's eleven sisters looked on.⁴

1. The drafting of this complaint was criticized by F. Reed Dickerson, who contended that it should read "... with the intent to indulge in a bad habit."

2. Testimony by defendant that plaintiff answered "\$5 and no warranties" was excluded by the trial judge.

3. The trial court also excluded testimony by two witnesses for the defendant that Miss Broad could not have seen defendant distinctly since the porch light was red.

4. Defendant attempted to show that these eye-witnesses were not in fact plaintiff's sisters, but the judge disregarded this evidence and accepted instead the testimony of plaintiff's alleged mother, Madam Broad, that "they were all my girls."

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Defendant, on the other hand, attempted to show as his primary defense that Miss Broad made her living by being attacked, and that she was thus injured "in the scope of her employment" and therefore her employer, Madam Broad, should compensate plaintiff.⁵ The court, however, rejected this contention, ruling that Miss Broad was without the scope of her employment since she had been ordered to stay off the front porch during business hours, and, hence, the purported act was in the nature of a frolic.⁶

As a second defense, defendant attempted to introduce in evidence a flimsy purple negligee which he alleged plaintiff was wearing on the night of the purported misdeed; but such evidence was excluded when the judge took judicial notice from his personal knowledge that plaintiff had on a green one just an hour before on the same night.⁷

At this point defendant's counsel moved to nonsuit plaintiff, but the judge ruled that there would be no undressing in the courtroom and suggested that it would be more appropriate to adjourn to his chambers for a view. After a lengthy view the judge dismissed the complaint, holding that plaintiff Broad had no cause of action, but, indeed, had herself caused the action.⁸

On appeal, contrary to its customarily strict outlook on s-e-x,⁹ the Indiana high court affirmed the trial court's decision, citing *Palsgraf* and pointing out that Mr. Fern was a reasonable and red-blooded man.

It is submitted that this case is a significant contribution to the morale¹⁰ of legal education, and it is urged that the Indiana courts rule *Broadly* in the future.

5. For a pregnant discussion of this area, see Small on WORKINGWOMEN'S COMPENSATION.

6. See Profumo, SOME AGENTS I HAVE KNOWN.

7. Cf. Swigmore, WHAT JUDGES WILL NOTICE.

8. For an interesting historical comparison, see "Start Off Your Legal Studies With A Bang," 1 Student Lawyer 34 (1894).

9. See *State of Indiana v. Beanblossom Play Boy Club*, *op. cit. supra*, find it yourself, where the court sustained a circuit court injunction ordering the Bunnies to "cease and resist."

10. Albeit not to the morals.

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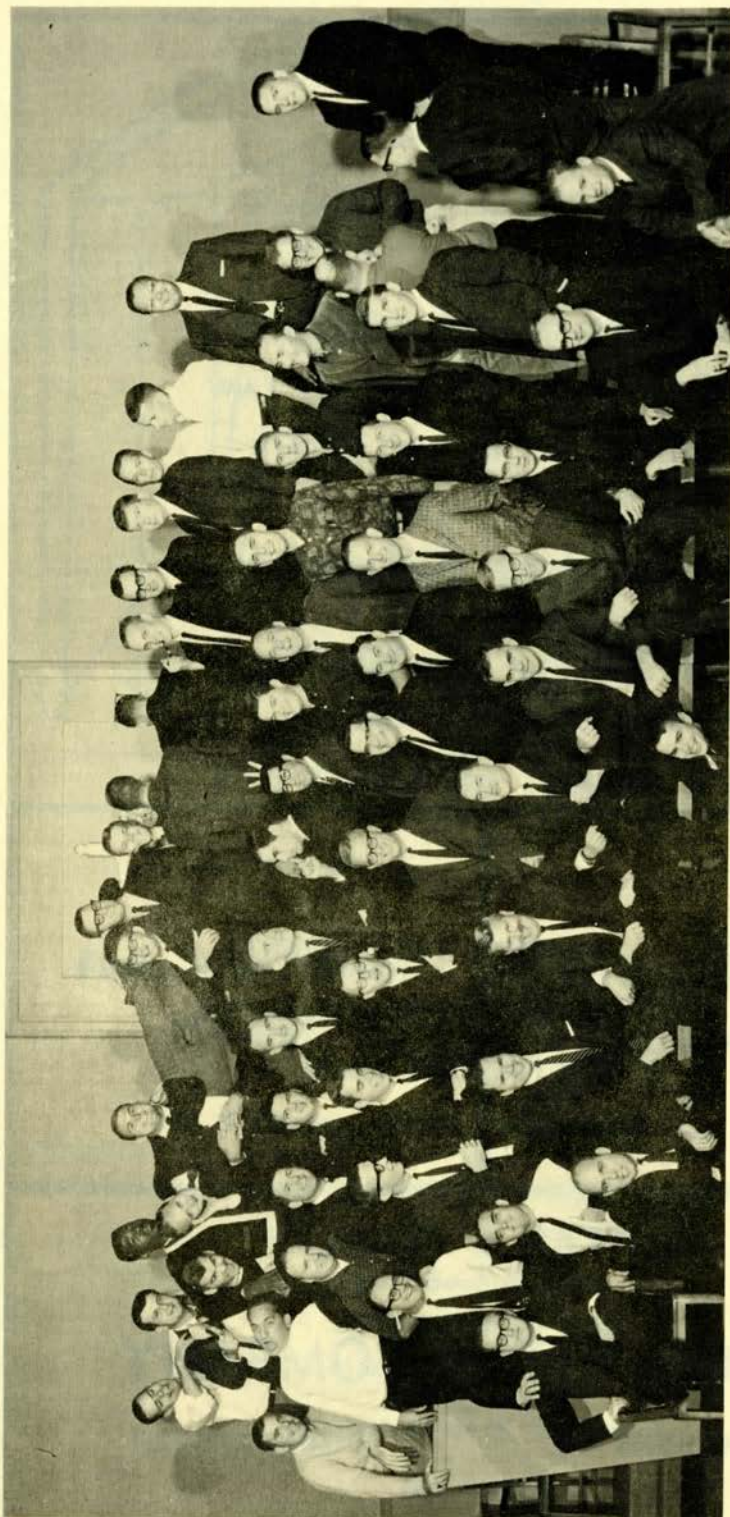
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(Missing: Millie, et al.) Photo by Pat's Husband.

LAW DAY PROGRAM

MAY 2, 1964

9:30 a.m. ANNUAL FRESHMEN-UPPERCLASSMEN SOFTBALL GAME

2:30 p.m. MOOT COURT COMPETITION
Bloomington Division v. Indianapolis Division

4:00 p.m. INFORMAL COFFEE HOUR
Honoring the Presiding Bench of the Moot Court Competition in the faculty lounge of the law school

5:30 p.m. STUDENT-GUEST-FACULTY COCKTAIL PARTY

7:30 p.m. SEVENTH ANNUAL LAW DAY BANQUET
Indiana Memorial Union, Solarium Room
Speaker: Nicholas deB. Katzenbach, Deputy Attorney General in the Department of Justice

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INDIANAPOLIS FACULTY ROUNDUP

During the academic year Indianapolis Division faculty members have supplemented their teaching tasks by engaging in a variety of governmental and law-related activities. Activities which have brought further credit to themselves and reflected honor upon our institution.

DEAN BEN F. SMALL was the subject of a flurry of publicity when he was called by former Professor Nelson Grills as an expert witness to explain to a 3-judge Federal panel considering legislative reapportionment the vague directions to District Courts contained in *Baker v. Carr*. The Dean's testimony was frustrated, however, when it became necessary for him to claim the self incrimination privilege twenty-seven times when asked his political affiliation.

PROFESSOR CLEON H. FOUST has spent a busy year appearing before meetings of the Indiana Prosecutors Association to give his analysis of the 1963 Offenses Against Property Act. He confesses that most county prosecutors were surprised to learn of the General Assembly's recodification of larceny, embezzlement, vehicle taking, etc. and probably will not file charges under it because Circuit court judges in their counties might find it difficult and perplexing to up-date their thinking. Professor Foust, a former Indiana Attorney General, is considering conducting seminars on defenses under the new law for criminal law attorneys who will doubtless prove more receptive.

PROFESSOR R. BRUCE TOWNSEND, who with Professor Harry R. Pratter, are the only two men in Indiana who have read the Uniform Commercial Code in the exact form it was passed by the 1963 General Assembly have found a \$35 million appropriation for construction of a deep water port at Burns' Ditch hidden away in the middle of the act. The two commercial law authorities decided not to mention their discovery, confident no one else will ever find it.

FORMER DEAN HENRY WHITHAM has decided to abandon illustrating contract rules of law with his famous "Horse Charlie" hypotheticals. The Dean feels it is necessary to devote all his classroom time to straightening out "sharp-shooting" first year students on bothersome fact situations they find in the cases.

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PROFESSOR LESTER B. ORFIELD, whose work in criminal procedure is justly famous, was delighted to learn his classic work, *FROM ARREST TO APPEAL*, will be reprinted by the publishers. To date he has scheduled autograph parties at Michigan City, Terre Haute, Pendleton and Peoria, Ill. Incidentally the professor receives a large volume of mail bearing those postmarks.

World traveler PROFESSOR JOHN GRIMES was able to work in another semester while recuperating from a painful "whiplash" suffered in a tragic accident last summer with a motorist whose liability was clear but whose coverage was non-existent. He sadly suggests that doctors became more affluent than lawyers only in recent years after they invented Blue Cross.

PROFESSOR LAWRENCE A. JEGEN was pressed into service by the State Department of Revenue to train new personnel hastily fielded by the department to administer Indiana's new tax laws. After the course, 27 new examiners resigned their new positions to return to their old Welsh Administration jobs as committeemen and weed mowers for the Highway Department. Several others stuck it out, however, claiming their new job was more challenging than mopping Statehouse floors.

PROFESSOR EDWARD W. GASS served as pro tem for a Marion County Superior Court judge on uncontested divorce day recently. The bachelor professor, America's youngest authority on domestic relations, refused to grant any of the seventeen divorces he heard because the plaintiffs failed in numerous ways to make their cases. This resulted in the postponement of thirty-four weddings. The dashing professor has also been involved in a variety of other absorbing pursuits, most of them in the vicinity of 22nd and Meridian.

PROFESSOR CHARLES D. KELSO spoke at a recent meeting of the Law Wives Club. The pioneer in programed law courses was asked to explain his "teaching machines" to the harried girls who are working them to allow their husbands more time to discuss jurisprudential theory at the Cavalier Lounge. Professor Kelso's educational experiments have produced the best educated group of student wives in the country.

The editors and contributors of the Flaw Journal wish to thank PROFESSOR DANIEL J. BAUM for his help in guiding our efforts. His experience as a law review advisor was well studied to the aims of *this* publication.

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RECENT LEGISLATION

THE UNIFORM COMMERCIAL CODE¹

The Indiana version of the Code is indeed impressive, at least on the bank account.²

Article 9-Secured Transactions, is claimed to cure the ills of chattel mortgage acts, conditional sales acts, factors lien acts, trusts receipt acts, assignment of accounts receivable acts, and sex acts. Article 9 supplants all of these statutes with one equally unintelligible. This is a great advance in the law and of inestimable value to the practicing attorney, since it will permit him to be ignorant only on one statute rather than five. This vast decrease in ignorance will make the lawyer relatively more intelligent.³ Remember, simplification of stupification is no easy matter.

Article 2-Sales, with other parts of the Code, has superseded about everything Sam Williston ever did.⁴ Until some of those well-considered,⁵ authoritative Indiana Appellate Court decisions are handed down on the Code, we will not know if it was wise to legislate Williston out of existence.⁶ It is certain however, that about half of your Hornbooks have taken a sharp decline in value.⁷

1. Amended out of uniformity by every state adopting it.

2. \$9.10 at Hoot Whiplash's Bargain Barn. (At these prices, there may be more than academic benefit to the annotators.)

3. Roscoe Milligram, *LEGAL LOGIC*, 3 Harper's Bazaar 8½ (1492).

4. See: S. Williston, *I SHOULD HAVE BEEN A DOCTOR*.

5. This proposition has been considered by that famous jurisprude Thorneycroft Huxtable, in his forthcoming book, *INCONSISTENCY MADE SIMPLE*.

6. See: W. Oliver, *THEY DID IT TO ME AGAIN*, S400796-1 (a) (2) (e) (7) (iii)

7. *VOLD ON SALES, SOMEBODY ON BILLS & NOTES*, JOHN SMITH ON POCAHONTAS.



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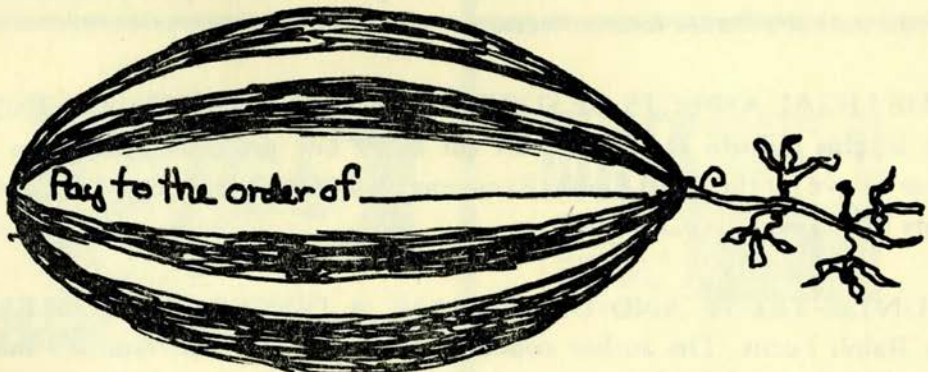
As law in Indiana, the Code will be backed by a multitude of cases decided between 1820 and 1880. This means that as a compendium of Mid-western legal history the Code cannot be surpassed.⁸

The language of the Code is characterized by much luggage, verbiage, garbage, and baggage.⁹ As far as the precision of the Code is concerned, we may be sure that Professor Fuchs did not write the text. The comments are somewhat humorless — this presents a serious question — did the annotator have a ghost writer?

As a final word, in this day of nonconformity, who needs uniformity anyway?

8. Assigned reading for World Legal History next semester by W. H. Mann.

9. A phrase graciously donated by the illustrious annotator whose overwhelming modesty forbids naming.



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IN MEMORIAM

Mr. Justice Bench*

*Contributed by I.C. Theball***

It is unusually gratifying to me at this time to join in honoring the memory of the late and great Mr. Justice Bench. Bench was late for everything he ever did (which wasn't much). He was born six months after he was due, was late to classes at Low High School, graduated from the University of Zanzibar as an exchanged student without having made it to a single class, was late to Evidence class at the I.U. School of Law (but only once), and died about fifty years too late.

But these brief, slanted facts do not portray the whole picture of the life of Mr. Justice Bench. He was a real self-made man in the sense that he scorned the aid of others in getting ahead. He simply stole money from his clients and bought his judgeship. He could have had other jobs, but he preferred public service and the public treasury. There was the time he was offered the position of elephant trainer for Cole Brothers. He could also have been a baboon with Barnum & Bailey. But his sense of duty and the realization that he was a damn poor lawyer always kept him on the bench (but not on the wagon).

In court the Justice handled a case in the same way he played golf. At golf he simply picked up a putter and swung like hell. The ball would go to the left, right,

* Late judge of the Tri-county Township Court and Real Estate Agency and member of the Indiana State Barred Association.

** Former caddy to Mr. Justice Bench. At present pro at the Gosport County Club.



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or rear; but no matter, there were always more balls. So in the courtroom he drew straws. If he drew the shortest straw, he decided for the plaintiff and printed the plaintiff's brief as his opinion. If he drew the longest, he decided for the defendant and used his brief as an opinion. If he drew a middle-sized straw he copied an opinion chosen at random from 14 Ind. But in his own language, "Don't worry; there will be more cases tomorrow." This is the simple philosophy which motivated a simple soul.

The contribution of Justice Bench to an ordered jurisprudence is manifest. His opinions were of the purest and most enlightened drivel (the more critical called them just plain bull). While they were always lengthly and well-typed, they never included anything so irrelevant as legal matter — except as they were drawn from the briefs of the parties or plagiarized from 14 Ind. Justice Bench was eternally fond of the philosophical aspects of a case (when he could recognize them), and therefore often quoted extensively from Plato, Aristotle, and Hall. Since the Justice could not tolerate trivial matters, he made it a practice of telling which party won only in those cases which were decided on Tuesday afternoon. Thus his major contribution to jurisprudence was to discourage all lawsuits in his jurisdiction — except those in which he was given a small fee in advance to decide in a certain way.

Of course law was only one of the justice's many interests. He had a wife and four children (officially) and took great interest in their home (he hated squeaking hinges and creaking stairs when he came in late at night). He was interested in the arts and was a discriminate collector. (He was extremely fond of his collection of burglar's tools.)

But looking back on the many fond memories of Justice Bench, the one which stands out most in my mind is the good Justice's instruction to the jury in his last trial: "Keep your damn feet off the jury box railing."

R.I.P., Mr. Justice Bench.

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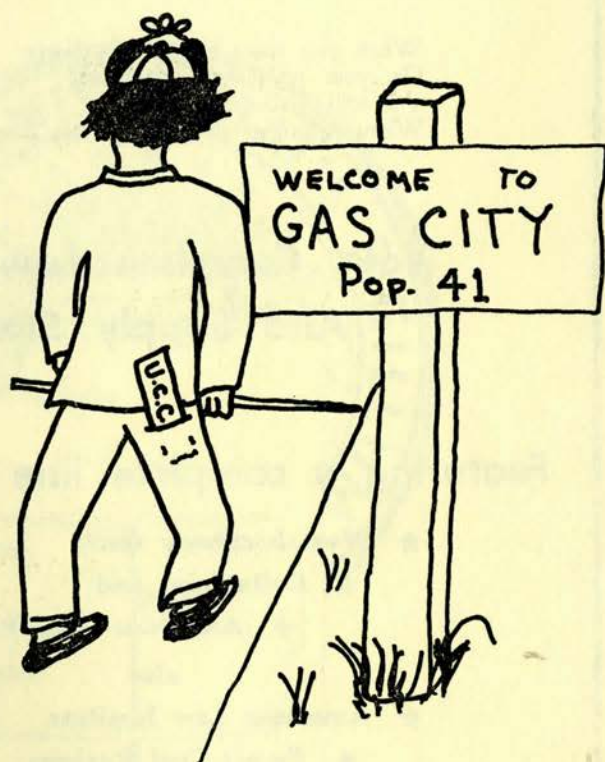
President Elvis J. Stahr has announced that next year's President's Ball will absolutely not feature Baby Huey and the Stingrays.



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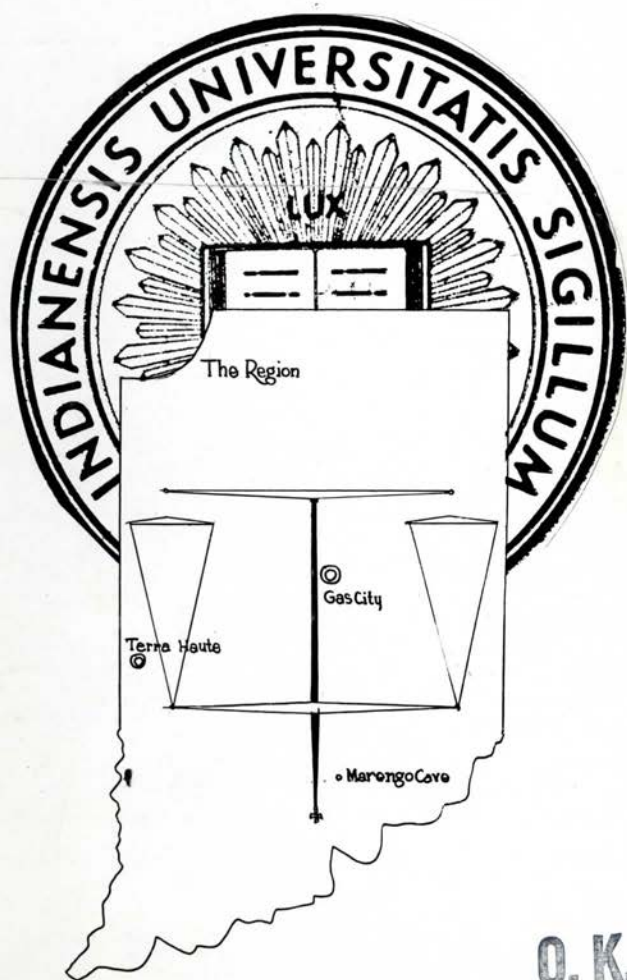
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